THE HON'BLE Ms. JUSTICE G.ROHINI

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WRIT PETITION NO: 23774 of 2006

Dated: 28-12-2006

Between:

Manair Education Society,

Yellandu Cross Roads,

Khammam.

..... PETITIONER

AND

The Assistant Provident Fund commissioner

Employees Provident Fund Organisation,

Sub-Regional Office, Balasamudram,

Hanamkonda, Warangal and 3others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

–

WRIT PETITION NO: 23774 of 2006

O R D E R:

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This writ petition is filed questioning the order passed by the first respondent dated 05-07-2006 whereunder the application preferred by the petitioner to set aside the order dated 28-03-2006 was rejected.

It is not in dispute that in exercise of powers under Section 7 A of the Employees Provident Funds Miscellaneous Provisions Act, 1952 (for short 'the Act'), the first respondent made an assessment for the period from 7/93 to 9/05. It appears that the petitioner has already paid the amount as determined under Section 7A of the Act. However, subsequently, the first respondent, by order dated
28-03-2006 passed under Section 14 B of the Act, levied a sum of Rs.32,24,106/- as damages and interest payable under Section 7 Q of the Act for belated remittance made by the petitioner. Alleging that the said order being an
ex parte order, is liable to be set aside, it appears that the petitioner made an application under Sub-section (4) of Section 7 A of the Act. The said application was rejected as not maintainable under the impugned order, which is under challenge in this writ petition.

Having heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and having regard to the provisions of the Act, I am unable to hold that the impugned order suffers from any infirmity. Even assuming that the order dated 28-03-2006 made under Section 14 B of the Act was an ex parte order, the only remedy available to the petitioner is to file an appeal under Section 7 I of the Act. Hence, the application under Section 7A (4) of the Act was rightly rejected.

It is represented by the learned counsel for the petitioner that as against the amount levied under
Section 14 B of the Act, a sum of Rs.4,84,417/- was already recovered by the respondents by attaching the Bank account of the petitioner.

Accordingly, the writ petition is dismissed. However the petitioner is granted leave and liberty to prefer an appeal under Section 7 I of the Act. If any such appeal is preferred within a period of four weeks from today, the same shall be entertained and decided on merits. Pending such appeal, the order, dated 28-03-2006 shall remain suspended provided the petitioner deposits half of the amount levied under the order dated 28-03-2006, after deducting Rs.4,84,417/- which was already recovered from the petitioner, within a period of six weeks from today. No costs.

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G. ROHINI, J

Dated: 28-12-2006

Note: Issue C.C. in 3 days.

B/o

KLP